



POLICE DEPARTMENT

September 5, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Christopher Sinnona
Tax Registry No. 942553
44 Precinct
Disciplinary Case No. 2011-5739

The above-named member of the Department appeared before the Court on May 27, 2014, charged with the following:

1. Said Police Officer Christopher Sinnona, while assigned to the 103rd Precinct, in Queens County, on or about May 6, 2011 and July 20, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department. To wit, said Police Officer Sinnona, after receiving appearance notifications, did fail to appear [] at traffic hearings held at Queens South Traffic Violations Bureau. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS, PUBLIC CONTACT
– PROHIBITED CONDUCT

2. Said Police Officer Christopher Sinnona, while on duty and assigned to the 103rd Precinct, on or about September 3, 2011, within the confines of the 103rd Precinct station house, was discourteous to Lieutenant Martin Zuniga. To wit, said Police Officer Sinnona raised his voice at said Lieutenant and referred to their Commanding Officer using disrespectful language.

P.G. 203-09, Page 1, Paragraph 2 GENERAL REGULATIONS, PUBLIC CONTACT
– GENERAL

The Department was represented by Scott Rosenberg, Esq., Department Advocate's Office. Respondent was represented by John Tynan, Esq., Worth, Longworth & London LLP.

Respondent pleaded Not Guilty to Specification No. 2. He pleaded Guilty to Specification No. 1 and testified in mitigation of the penalty. A stenographic transcript of the hearing record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Not Guilty of Specification No. 2. Having pleaded Guilty to Specification No. 1, he is found Guilty.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Lieutenant Martin Zuniga as a witness.

Lieutenant Martin Zuniga

Zuniga was assigned to the 103 Precinct. Generally, Zuniga was assigned as platoon commander. On September 3, 2011, however, he also was assigned as the desk officer because the command was shorthanded that day. At approximately 1605 hours, Respondent and his partner entered the precinct to file a missing-person report. Zuniga asked Respondent for his activity reports. Zuniga then looked at them and said, "[W]hat's going on with you guys? These activity reports look dismal." Zuniga maintained that he said this to Respondent because his activity was "pretty bad compared to the average officer."

According to Zuniga, Respondent went into a 10-minute "tirade" in which he explained his "philosophy" of being a police officer. Zuniga said that in this rant Respondent addressed him, as well as supervisors, including the commanding officer (CO). Respondent believed that his superiors had forgotten what it was like to be a line officer. Respondent believed that they

were concerned only with “numbers,” i.e., the amount of arrests, summonses and other activity. When Zuniga reminded Respondent that their commanding officer already had spoken to Respondent about his activity, Respondent replied that he did not care what the CO thought and called him an asshole. Zuniga observed Respondent as being “a little loud,” while he remained “low and calm.”

On cross examination, Zuniga agreed that some officers were assigned to anti-looting posts in August 2011 in the wake of Hurricane/Tropical Storm Irene. Officers also were posted as security for a strike at a Verizon facility. Zuniga asserted that these assignments were picked solely by civilian employees in the roll call office.

Zuniga stated that supervisors evaluated officers’ activity by comparing individuals. The supervisors expected a certain level of activity every month. The supervisors took into account the officers’ different assignments. Zuniga conceded that for officers not assigned to sector patrol, it was harder to obtain a level of activity that the supervisors deemed adequate. Zuniga was aware that Respondent had only nine days on patrol during August 2011 out of 21 work days. Zuniga was unaware that Respondent was assigned to a critical response vehicle (CRV) post on three of those nine days. Zuniga agreed that this would have lowered Respondent’s level of activity.

Zuniga said that he sometimes instructed officers in front of each other. Zuniga would instruct officers privately if the matter were “more of a personal nature,” but in groups if it related to “work ethics.” Zuniga felt that if “you’re a lacking officer,” group pressure would force the officer to improve. Zuniga would pair an officer that was “the paragon of policing” if it would help another officer to be more successful.

When asked if “that’s what you are taught in the police department when you were promoted to compare officers against one another, kind of like a gladiator style supervisory method?,” Zuniga replied that sometimes the official supervisory training was “not efficient.” When counsel asked Zuniga if he “devised this on your own kind of an adversarial negative reinforcement management style?,” Zuniga answered that he used his Marine Corps “leadership skills” more than his Department training. He agreed that it was part of the Marine ethic to “demean” a subordinate in order to improve her performance.

Zuniga believed that other officers present for Respondent’s “tirade” had heard it because they were within close proximity. Respondent was speaking loudly enough for him to be heard by everyone within the vicinity of the desk, including his partner and the telephone switchboard (TS) operator. Zuniga’s CO informed him that the other officers denied hearing it during their official Department interviews. Zuniga was incredulous at this.

Zuniga accepted Respondent’s need to let off some steam because it is “part of being a cop.” Respondent took it too far, however, when he cursed the CO. Zuniga believed that Respondent was letting off steam and not being discourteous.

On re-direct examination, Zuniga said that it was not his intent to demean or embarrass Respondent in front of his colleagues. Zuniga also said that Respondent did not act discourteously toward him.

Respondent’s Case

Respondent testified on his own behalf.

Respondent

Respondent previously was assigned to the 103 Precinct in Queens. He lived in [REDACTED] [REDACTED] He could have driven to work, but also was able to take the Long Island Rail Road, taking advantage of the free commuter pass offered to police officers.

Respondent testified that he normally was assigned to patrol on the third platoon. His 2010 evaluation was 3.5. In August 2011, however, he also was assigned to CRV counterterrorism posts, providing security for sensitive locations in Manhattan. Respondent also had other specialized posts, including post-Irene security in the Rockaways, the Verizon strike, and hospitalized prisoners. There was not "any type of potential" to make arrests, issue summonses, or conduct street stops during these posts.

On September 3, 2011, Zuniga approached Respondent regarding his August 2011 activity. Respondent said that Zuniga told him he was unhappy with his activity. Respondent explained to Zuniga that he had not had many days on patrol, and it was difficult to heighten his activity. Zuniga responded that that was no excuse. Respondent believed that Zuniga intended to embarrass him by speaking in front of other officers. Respondent said that his tone was one of frustration but neither of them raised his voice. Respondent denied that he was discourteous to Zuniga.

The conversation ended and Respondent and his partner resumed patrol. Around four and a half hours later, Respondent and his partner were ordered to return to the station house. They were told that they were to be subjected to an official interview.

Prior to the incident, Respondent said, he had spoken with Zuniga about Zuniga's fear of being transferred. According to Respondent, Zuniga was nervous that the CO was not happy with him and the platoon. Respondent said that Zuniga was told that if he did not get the third

platoon to increase their activity, he would be transferred to a place where he would have to pay a toll to get to work. Zuniga did not want to pay the toll.

Six days following his alleged "tirade," though, Respondent was transferred to the 44 Precinct in the Bronx. He had to drive there, incurring the toll each way.

Respondent admitted that on two occasions in 2011, he failed to appear at the Traffic Violations Bureau (TVB) after being notified. The notifications were regarding summonses that he had issued. In general, Respondent attended TVB anywhere between six to twelve times a year.

One of the missed dates was May 6, 2011. On May 5, 2011, Respondent began a double tour, which ended the morning of May 6, 2011, at 0750 hours. Respondent had this change of tour approved by both Zuniga and another lieutenant. Respondent forgot about his court appearance later that afternoon.

Respondent also failed to appear on July 20, 2011. He got the date wrong and thought that it was July 23, 2011. When he went to court on the 23rd, he was told that he already had been "scheduled for a no show" (July 23, 2011, was a Saturday).

On cross examination, Respondent agreed that the platoon commander had the right to ask about an officer's activity each month. Respondent admitted telling Zuniga that he was unhappy with the questioning. Respondent also told Zuniga that he did not care what the CO had to say about his productivity. This conversation took place in an open area where people could hear what they were saying to one another.

Counsel asked Respondent whether he understood that he could be assigned to any command within the city, regardless of where he lived. Respondent agreed.

When Respondent requested his change of tour in May 2011, the lieutenants were unaware of his scheduled TVB date.

Upon questioning by the Court, Respondent denied telling Zuniga that the supervisors did not care about anything but numbers, or that they had forgotten what it was like to be an officer on the street. Respondent was embarrassed and frustrated because Zuniga made it sound as if his activity was dismal on a consistent basis and that "essentially I was a bad cop." Respondent rebutted Zuniga's statements by explaining that while he had one bad month, he had performed well in previous months. Respondent spoke with Zuniga about the previous months, regarding the arrests he had made, summonses he had written, and the jobs that he had gone to. Respondent explained himself in a thorough manner, as Zuniga allowed him to speak. Their conversation was less than five minutes.

On re-cross examination, Respondent agreed that during his interaction with Zuniga he was a little loud.

FINDINGS AND ANALYSIS

In the second specification, Respondent is charged with being "discourteous to Lieutenant Martin Zuniga," in that he "raised his voice at said Lieutenant and referred to their Commanding Officer using disrespectful language." On September 3, 2011, Zuniga was assigned to the 103 Precinct in Jamaica, Queens, as desk officer and platoon commander for the third platoon. He was reviewing monthly activity reports when Respondent came into the station house.

Zuniga admitted that he confronted Respondent about his activity levels in the area of the desk, around other members of the precinct, including Respondent's partner and the TS operator.

Zuniga testified that he told Respondent his activity was “dismal.” This upset Respondent. According to Zuniga, Respondent began a ten-minute “tirade” about all his problems with the command and its supervision. He stated that the supervisors did not care about anything other than “numbers,” i.e., officers’ activity levels and their relation to crime statistics. Respondent also said that the supervisors did not remember what it was like to be a cop on the street. When Zuniga told Respondent that the commanding officer was concerned about his activity as well, Respondent referred to the CO as an “asshole.”

Respondent confirmed that Zuniga confronted him about his activity. He said that he defended himself by pointing out that during August 2011 he only had been assigned to enforcement in a sector car on well less than half of his tours. The other times he was assigned to anti-looting patrols in the Rockaways (also part of Patrol Borough Queens South) after Hurricane/Tropical Storm Irene, as security during a Verizon strike at a major facility within the confines of the 103 Precinct, and CRV details in Manhattan. He was not expected to take proactive enforcement action, like issuing summonses, during these tours. In fact, that would be discouraged at best and impossible at worst. He pointed out to Zuniga that in previous months he had good activity but that August was just a bad month for him activity-wise.

Respondent admitted that he was unhappy Zuniga was speaking to him about his activity. Respondent’s voice was a little loud but he denied that he was discourteous to Zuniga. The exchange took five minutes. Respondent denied making the remarks that Zuniga attributed to him. He admitted, however, that he told Zuniga he did not care what the CO thought of his activity.

Standing by itself, a raised voice is not discourteous. See Case No. 67204/92, p. 13 (Nov. 22, 1994). Police officers are allowed to complain to their supervisors about legitimate gripes.

See Case No. 73432/98, p. 6 (Feb. 2, 1998). Here, no one else heard the remarks, a fact Zuniga found unbelievable, suggesting that Respondent's partner and the TS operator were suffering from selective memory. It is more difficult to believe, however, that not even one person heard this supposed ten-minute elevated-voice "tirade." It leads to the conclusion that the exchange, as a whole, was "not loud" and was "inconsequential in nature." Cf. Case No. 74582/99, p. 11 (Dec. 18, 2001). Moreover, Zuniga sat there through this whole "tirade" and still concluded that Respondent was neither discourteous nor disrespectful to him. Under all of the circumstances, the Court concludes that any "raised . . . voice" by Respondent did not constitute discourtesy.

The specification also alleges that Respondent was discourteous to Zuniga by referring to their CO in "disrespectful language." Respondent denied calling the CO an asshole but admitted telling Zuniga that he did not care what the CO thought of his activity. Both statements would be, as the Advocate argued, objectively discourteous or disrespectful. But the specification charges that Respondent was discourteous to Zuniga. Nothing about these statements was discourteous to Zuniga and Zuniga admitted that he did not feel disrespected. Therefore, Respondent is found Not Guilty of Specification No. 2 as charged.

Respondent pleaded Guilty to Specification No. 1. This involved two occasions in 2011, months apart, on which he failed to appear at the Traffic Violations Bureau. On the first occasion, Respondent scheduled a tour change, unintentionally making him off duty at the time of the TVB hearing. On the second occasion, he thought that the appearance was on a different date. Having pleaded Guilty, Respondent is found Guilty.

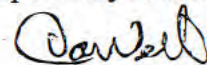
PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 10, 2006. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of twice failing to appear at two Traffic Violation Bureau hearings. On the first occasion, Respondent scheduled a tour change, unintentionally making him off duty at the time of the hearing. Although he suggested that his supervisors approved his tour change, it primarily was Respondent's responsibility to keep the appearance and attend the hearing. There was no suggestion or evidence that the supervisors purposely forgot about the notification to trap Respondent into not attending. In fact, Respondent admitted that they did not know about the TVB hearing. On the second occasion, Respondent thought his appearance was for a different date.

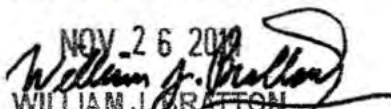
There was no evidence as to how many motorists' cases were dismissed, if any, as a result of Respondent's misconduct. Recent cases involving the dismissal of two motorists' cases have resulted in the loss of 5 vacation days. As such, the Court recommends that Respondent forfeit 5 vacation days as a penalty.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner Trials

APPROVED

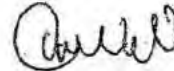
NOV 26 2011

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTOPHER SINNONA
TAX REGISTRY NO. 942553
DISCIPLINARY CASE NO. 2011-5739

Respondent received an overall rating of 4.0 "Highly Competent" in 2013, 2012 and 2011 on his annual evaluations. [REDACTED]
[REDACTED]. He has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner – Trials